

PARENTAL PLACEMENT ADOPTIONS IN VIRGINIA



People Helping People

**Commonwealth of Virginia
DEPARTMENT OF SOCIAL
SERVICES**

AN EQUAL OPPORTUNITY AGENCY

ADOPTING A CHILD IN VIRGINIA THROUGH

Parental placements, or direct adoptions, are those arranged directly between the birth parents or legal guardians and the adoptive parents. Effective July 1, 1989, Virginia law (Chapter 11, Title 63.1) changed so that all children and parents involved in parental placements would have many of the same protections and services that already exist when an adoption is arranged by a public or private adoption agency.

This brochure has been developed to serve as a guide as you make the many decisions involved in adoption, either as a birth parent or an adoptive parent. It explains the purpose and details of the law and outlines what must be done to successfully carry out a parental placement adoption. It also gives resources which may be helpful to you.

Another law, effective July 1, 1990, requires public and private child placing agencies to follow the requirements of the parental placement law whenever they accept custody of a child for the purpose of placing the child with adoptive parents designated by the child's parents or person other than a public or private child placing agency. Obviously, this brochure cannot include all the provisions of the adoption law, and you are encouraged to consult with an attorney.

Purpose of Parental Placement Laws

These new laws strengthen protections for children, birth parents, and adoptive parents involved in parental placements by assuring that opportunities and procedures for the rights and needs of all parties are considered. Because adoption changes the lives of all parties forever, the law is intended to support the birth parents' and adoptive parents' efforts to make well-informed decisions about their own and the child's future. These laws do this in several ways:

JUGH PARENTAL PLACEMENT

- by specifying the services and information that birth parents and adoptive parents must receive in order to understand their options and to make informed, fully considered decisions;
- by clarifying the steps of the adoption procedure;
- by ensuring that the intended adoptive home is investigated early in the process;
- by clarifying what the court must do when some requirement has not been met; and
- by defining prohibited placement and adoption practices, including "baby-selling" activities, and by assigning reporting and enforcement responsibilities if illegal practices occur.

Who May Place Children?

Children may be placed for adoption by:

- the birth parents or legal guardians; or
- a local department of social services or a licensed private child placing agency.

When birth parents decide to place a child directly they should:

- locate and meet with the adopting family to decide if they can meet the needs oof the child;
- make a plan for the child, including who will care for the child until consent is executed in juvenile court; and
- contact an attorney for legal advice, protection and information about their right to change their minds within the time frames specified by law.

Birth parents and adoptive parents may advertise their interest in adoption.

Who May Assist and How?

As long as nothing of value is given or accepted for the service, anyone may help birth parents locate prospective adoptive parents or help adoptive parents locate a child

Prior to adoption, birth parents must be informed about:

- the options available to them in planning for the future of their child;
- alternatives to adoption; and
- adoption procedures and opportunities for place-ment with other adoptive families.

Anyone may provide this information.

Key Legal Requirements

A home study of the adoptive parents by a licensed private child placing agency or a local department of social services is required before the court can accept the birth parents' consent to the adoption. The agency worker must meet with birth parents and adoptive parents together at least once during the home study.

The juvenile court must assure that the birth parents' consent for adoption, including the legal father when applicable, is informed and uncoerced.

Consent of the birth parent(s) must be executed in juvenile court in the presence of the adoptive parents.

The birth parents cannot consent to the adoption until the child is at least ten days old.

The child cannot be placed for purposes of adoption until consent has been given.

Usual Sequence of Events

Birth parents and adoptive parents become aware of the potential for parental placement adoption.

Adoptive parents contact a local department of social services or a private licensed child placing agency to arrange for counseling and home study.

Birth parents are made aware of alternatives.

Home study begins; birth and adoptive parents meet together with agency worker. Birth and adoptive parents exchange identifying and background information.

Agency worker submits a report of the home study to juvenile court.

Ten days after birth of child, or later, birth parents execute written consent at juvenile court in the presence of the adoptive parents.

Birth parents may revoke consent any time within 15 days after execution for any reason. Consent may also be revoked prior to the final order of adoption upon discovery of fraud or duress or with the written consent of the adoptive parents. **Consequences of executing such a consent should be discussed with an attorney.**

If all requirements of the law have not been met, the court must refer the case to a child placing agency to complete the requirements.

If the court finds that placement of the child in the adoptive home is against the best interests of the child, the birth parents are informed and given an opportunity to make alternate plans. If they do not wish to retain custody of the child, do not have an alternative placement, or cannot be located, the court must intervene in the child's behalf.

If all requirements have been met and the court determines that the placement is in the best interests of the child, it accepts consent and appoints the adoptive parents guardians of the child until the final order of adoption is entered.

Adoptive parents file a petition for adoption in circuit court. Consent, appointment of guardianship, and a copy of the adoptive home study report must be filed with this petition. An Interlocutory Order of Adoption may be entered when the circuit court accepts the adoption petition.

After a six-month supervisory period, the Final Order of Adoption may be entered.

As you can see, it is important that a local department of social services or a licensed private child placing agency be contacted immediately upon determining that a parental placement is a possibility. If the home study is not completed early in the process, many frustrating delays can slow the placement of the child in the home for purposes of adoption.

Responsibilities of Child Placing Agency

A local department of social services or private licensed child placing agency must:

- counsel adoptive parents about
 - alternatives to adoption,
 - adoption procedures,
 - procedures for termination of parental rights, and
 - opportunities for adoption of other children;
- determine that the adoptive family's decision is informed and uncoerced and that the family intends to file an adoption petition, and
- report to juvenile court:
 - whether identifying and background

- any financial agreements or exchange of property that occurred among the parties and fees charged or paid for services related to placement or adoption,
- that all parties understand that no binding contract regarding placement or adoption exists,
- that the agency has met with birth parents and adoptive parents together during home study,
- that birth parents have been informed and adoptive parents have been counseled in required areas, and
- its recommendation regarding the suitability of the placement.

Role of Attorney

Normally, the role of the attorney in this process is to obtain consent of the birth parents; give legal notice to all parties whose consent has not been obtained; file necessary documents with juvenile and circuit courts; and to ensure compliance with interstate placement laws when appropriate.

Prohibitions and Penalties:

Virginia law prohibits certain exchange of property in connection with the placement or adoption of a child. The only money, property, or items of value that can be exchanged are:

- Fees to child placing agencies for reasonable and customary services;
- Payment for medical expenses directly related to the birth mother's pregnancy and hospitalization for the birth of the child;
- Payment for medical expenses for the child;
- Payment to birth parents for transportation to execute consent;
- Payment of usual and customary legal fees;

- In intercountry placements, payment of reasonable expenses for transportation and compliance with state/federal law.

Any person or agency found in violation of this provision is guilty of a Class V felony.

Suspected violations of the law are to be investigated by the Commissioner of the Virginia Department of Social Services, who reports violations to the local Commonwealth Attorney and to the regulatory authority when violations occur in the course of the practice of a profession or occupation.

Under Virginia law, it is illegal for any person to engage in the activities of a child placing agency without a license to operate as a child placing agency. Violators may be fined up to \$100 per day and/or imprisoned for up to one year.

For More Information

For more information about how parental placement laws may affect you, please contact an attorney, the Virginia Department of Social Services at (804) 692-1273 , 692-1779, or 692-1781, or any local department of social services or licensed private Virginia child placing agency.

For information about agency adoptions, the services provided in agency adoptions, and a list of local departments of social services and licensed private Virginia agencies, contact the Virginia Department of Social Services at the numbers referenced above.